



**MINUTES
FREMONT PLANNING COMMISSION
REGULAR MEETING OF JUNE 27, 2002**

CALL TO ORDER: Chairperson Manuel called the meeting to order at 7:00 p.m.

PRESENT: Chairperson Manuel, Commissioners Arneson, Cohen, Harrison, Thomas, Weaver, Wieckowski

ABSENT: Weaver arrived 7:05 p.m. and left 10:00 p.m.

STAFF PRESENT: Dan Marks, City Planner
Christine Daniel, Senior Deputy City Attorney
Joann Pavlinec, Associate Planner
Len Banda, Special Assistant
Matt Foss, Planner I
Vik Slen, Planner I
Alice Malotte, Recording Clerk
Chavez Company, Remote Stenocaptioning
Walter Garcia, Video Technician

APPROVAL OF MINUTES: None

THE CONSENT LIST CONSISTED OF ITEM NUMBERS 4, 5, AND 6 (Items 5 and 6 were voted upon separately).

IT WAS MOVED (THOMAS/HARRISON) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-0) THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBER 6.

Item 6. ANDRADE FINDING AND REZONING - 1940 Curtner Road - (PLN2002-00294) - to consider a General Plan Consistency Finding to correct a graphic error on the General Plan land use map showing the subject property as Institutional Open Space where the land use designation should have been shown as Low Density Residential (.5-1.5 DU/AC) and to consider a corresponding Rezoning from O-S (H-I) to R-1-80 (H-I) for property located in the Warm Springs Planning Area. This project is categorically exempt from CEQA review per Section 15301(l)(1), Existing Facilities.

HOLD PUBLIC HEARING;

AND

FIND THAT A GENERAL PLAN MAP GRAPHIC ERROR OCCURRED DURING THE 1991 CITYWIDE GENERAL PLAN AMENDMENT AND DIRECT STAFF TO CORRECT THE GENERAL PLAN MAP DESIGNATION OF THE PARCEL FROM INSTITUTIONAL OPEN SPACE TO VERY LOW DENSITY RESIDENTIAL (0.5-1.5 DU/AC) IN CONFORMANCE WITH EXHIBIT "A";

AND

FIND PLN2002-00294 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN UNDER CHAPTER 12 [ADMINISTERING THE GENERAL PLAN]. THESE PROVISIONS AUTHORIZE THE PLANNING COMMISSION TO EXECUTE CONSISTENCY FINDINGS FOR LAND USE DIAGRAMMS WHERE THE DIFFERENCES IN INTERPRETATION ARISE OR WHERE

POLICIES, GOALS, AND OBJECTIVES CONFLICT IRRECONCILABLY WITH ONE ANOTHER;

AND

FIND THAT THIS PROJECT IS CATEGORICALLY EXEMPT PER CEQA SECTION 15301(L)(1) [EXISTING FACILITIES] BECAUSE IT IS A PARCEL WHICH HAS AN EXISTING SINGLE-FAMILY RESIDENCE WHERE THE USE WILL CONTINUE TO BE USED AS ONE SINGLE-FAMILY RESIDENCE AS PROPOSED, AND THAT THERE ARE NO CHANGES THAT WOULD REQUIRE FURTHER ENVIRONMENTAL ANALYSIS;

AND

RECOMMEND THAT THE COUNCIL APPROVE PLN2002-00154 TO REZONE THE PARCEL FROM O-S (H-I) TO R-1-80 (H-I) IN CONFORMANCE WITH EXHIBIT "B", (REZONING EXHIBIT).

Vice Chairperson Arneson recused herself because she lived within 300 feet.

The motion carried by the following vote:

AYES: 6 – Cohen, Harrison, Manuel, Thomas, Weaver, Wieckowski
NOES: 0
ABSTAIN: 0
ABSENT: 0
RECUSE: 1 – Arneson

IT WAS MOVED (HARRISON/THOMAS) AND CARRIED BY THE FOLLOWING VOTE (6-1-0-0) THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBER 5.

Item 5. METROPCS AT VARGAS ROAD - 42500 Vargas Road - (PLN2002-00209) - to consider a Conditional Use Permit to allow the installation of a new façade-mount cellular site at the existing Alameda County Water District facility located off Vargas Road. The proposal includes mounting two antennas flush against existing light standards on an existing access road, and locating accessory equipment cabinets. This project is categorically exempt from CEQA review per Section 15303, New Construction or Conversion of Small Structures.

Vice Chairperson Arneson requested that light gray rather than white mat be used, because it would be less visible.

The applicant was in agreement.

HOLD PUBLIC HEARING;

AND

FIND PLN2002-00209 EXEMPT FROM CEQA REVIEW PER SECTION 15303, NEW CONSTRUCTION OR CONVERSION OF SMALL STRUCTURES;

AND

FIND PLN2002-00209 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S FUNDAMENTAL GOALS, LAND USE, AND NATURAL RESOURCES CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT. THE PROJECT CONFORMS TO THE STANDARDS OF THE WIRELESS TELECOMMUNICATIONS ORDINANCE (#2213)

AND

APPROVE PLN2002-00209, AS SHOWN ON EXHIBIT "A", SUBJECT TO FINDINGS AND CONDITIONS ON EXHIBIT "B".

The motion carried by the following vote:

AYES: 6 – Arneson Harrison, Manuel, Thomas, Weaver, Wieckowski
NOES: 1 – Cohen
ABSTAIN: 0
ABSENT: 0

IT WAS MOVED (HARRISON/ARNESON) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0) THAT THE PLANNING COMMISSION TAKE THE FOLLOWING ACTION ON ITEM NUMBER 4.

- Item 4. WASHINGTON WEST RETAIL SHOPS – PUBLIC ART - (PLN2002-00240)** - to consider three alternatives for public art to be located at the corner of Paseo Padre Parkway and Mowry Avenue. This project is categorically exempt from CEQA review per Section 15332, In-fill Development Projects. A landscape plan is also included as an informational item per a condition of approval in the original application (F99-20).

CONTINUE TO JULY 11, 2002.

The motion carried by the following vote:

AYES: 7 – Arneson, Cohen, Harrison, Manuel, Thomas, Weaver, Wieckowski
NOES: 0
ABSTAIN: 0
ABSENT: 0

PUBLIC COMMUNICATIONS

ORAL COMMUNICATIONS

PUBLIC HEARING ITEMS

- Item 1. PACIFIC COMMONS - Catellus Development Automall Parkway - (PLN2002-00263)** - to consider a Planned District Major Amendment to modify the approved land use and circulation plans for the Planned Development known as Pacific Commons (P-2000-214). Specifically, the proposal would: 1) relocate the proposed southerly extension of Boscell Road to the east and rename it Braun Street; 2) create an area between the existing Auto Mall and proposed Braun Street that would be designated as a major retail area and that would accommodate both regional and community commercial land uses; 3) designate additional lots southerly of the existing Auto Mall for additional auto dealerships; 4) allow a reduction in the minimum height requirements for the office/R&D, retail and auto sales buildings on a portion of the site; and 5) rezone two parcels of land from P2000-214 (Pacific Commons) to P-88-15B (Auto Mall). Additionally, the proposal necessitates an amendment to the City's Option Agreement for property within Pacific Commons. The amendment proposes to relocate the City's "Option Parcels" from the area proposed for major retail development to another location within the Pacific Commons project. An Addendum to the adopted EIR and Supplemental EIR has been prepared per Section 15164 of the 2002 CEQA Guidelines. (Continued from June 13, 2002.)

City Planner Marks noted modifications to the staff report and to the conditions.

Dan Marcus, Sr. Vice-President, Catellus Development Corporation, apologized for not attending the previous hearing. He summarized the major amendment (as noted above in the summary) and stated that:

- It would allow the growth of existing City of Fremont businesses
- It would provide a location for an approved retail land use and would help to attract office and R&D businesses to the development
- It would provide for new road improvements (\$25 million) in 2003
- It would allow new buildings to be built (\$30 million), which was more than any other developer in the Bay Area was providing

Mr. Marcus pointed out color renderings that showed an idea of what the new buildings would look like along Bunche Road and claimed that the original vision for Pacific Commons would be kept intact. He also summarized the Master Plan:

- Streets that were walkable, pedestrian friendly and with trees
- Clear and convenient connections to many transportation alternatives

- Bioswales and other innovative architectural and landscape architectural features
- Buildings that addressed the street to make pedestrian connections
- Community servicing retail facilities created that would be within convenient walking distances of the businesses with solid pedestrian linkages
- Distinctive landscape features and amenities
- People places that utilized various sizes, character and scale that were linked together

Sean Whiskeman, Director of Development, Catellus Development Corporation, drew the Commissioners' attention to the colored conceptual rendition that illustrated how the two-story façade on the single floor buildings would look, in answer to Vice Chairperson Arneson's concerns expressed at the previous hearing. He noted that some of the uses within the retail center could be found in any typical neighborhood shopping center, such as a dry cleaner, printing company, post office facility and restaurants, along with other food-rated uses. He agreed with the condition that only one service station would be allowed within the major retail area and drive-through restaurants would be prohibited. He touched upon the above comments made by Mr. Marcus. He introduced David Rogers, Development Director for Costco Wholesale.

David Rogers stated that he expected to bring a site plan to the City soon and believed that Costco would be a "nice fit." He asked for questions.

Chairperson Manuel opened the public hearing.

Commissioner Cohen asked Mr. Rogers if the Costco facility would have windows and if the company was open to including windows in its building design.

Mr. Rogers answered that windows were not contemplated, but the company was always open to looking at design options.

Commissioner Cohen stated that the main issue for him was that allowing Costco into the retail environment would deviate from the original philosophy of the project. He hoped that exceptions to the traditional "big box", suburban development could be reached, as it would be an issue when the Commission reviewed the building design.

Mr. Rogers stated that he had been discussing with others how to develop an innovative design that would integrate into this larger development.

Chairperson Manuel closed the public hearing.

Commissioner Harrison asked, regarding Exhibit C, Condition 8, if there was a definition for a drive-in, as he wondered if it could impact the drive-in auto/tire area of Costco.

City Planner Marks stated that the definition was only to be applied to restaurants.

Vice Chairperson Arneson stated that she did not see a condition concerning drive-in restaurants not being allowed and that she was pleased to see the condition concerning service stations.

City Planner Marks stated that it was Condition 8, as referred to by Commissioner Harrison.

Commissioner Cohen asked if the Planning Commission would review the design of the buildings in Pacific Common and if the Costco building would be included. He believed that this deviation of allowing a "big box" in Pacific Commons was important and would set the tone for the rest of the building designs. He wondered if 50,000 square feet was appropriate for review or should the Commission review smaller buildings. He believed that staff was helped with design review when it would eventually come before the Commission. He was leaning towards Commission review of building design for smaller buildings, which he believed would help to ensure that the original vision was held to as much as possible.

City Planner Marks answered that only buildings over 50,000 square feet would be reviewed by the Planning Commission under the proposed conditions. The Costco building design would be reviewed under that condition. Staff knew of no plans for other buildings over 50,000 square feet. He expected that the Costco building would be built first in the retail area. He agreed that the Costco building would set the design approach for the rest of the retail area. He believed that the building architecture would be less important than the design of the site plan. He stated that, at this time, it was not known what the size and architecture of the other retail buildings would be.

Vice Chairperson Arneson commented that many site plans reviewed by the Commission were conceptual and she suggested that this be conditioned for the Costco building. She agreed that 50,000 square feet was too large for design review. She asked if Chapter 4, Section L was Exhibit G, Major Retail Goals, Objective and Guidelines.

City Planner Marks stated that she was correct.

Commissioner Harrison asked if the threshold was lowered to a square footage below 50,000 square feet, how would it affect the applicant regarding the design review time as compared to no review of buildings below 50,000 square feet.

City Planner Marks stated that, generally, a design took six to eight weeks before it was ready to be included in the Planning Commission agenda.

Vice Chairperson Arneson stated that if the design of several small buildings could come before the Commission at once for approval it should not be too much of a hardship for the applicants.

Commissioner Cohen recalled that he originally recommended that the Commission review all building designs, no matter the size. He opined that his current recommendation was significantly more flexible, as he was thinking of review of all buildings 25,000 square feet and larger.

Commissioner Wieckowski asked if someone could give him an idea of the size of a 25,000 square foot building. He asked how the 50,000 square feet figure was reached for the Commission to review.

Chairperson Manuel opened the public hearing to allow the applicant to answer Commissioner Wieckowski's question.

Mr. Marcus stated that the average size of a Borders, a Barnes and Noble, a Staples building was between 20,000 to 25,000 square feet. During the DO process, the 50,000 square foot example was adopted and it was not expected that retail buildings would be any larger. He acknowledged that a "big box" facility was a departure from the original plan for Pacific Commons.

Vice Chairperson Arneson asked if a schematic could be included with the site plan for the retail area when it was brought before the Commission.

Mr. Marcus stated that he could commit to something of the level shown in the renderings before the Commission. He noted that a specific agreement between Catellus and Costco had not been made, with regard to the potential for a large Costco building going in on the retail site. He believed that the retail buildings would look similar to the color rendering.

An extended conversation ensued between Vice Chairperson Arneson and Mr. Marcus regarding the site plan and how the eventual building designs would conform to the original vision of the project.

Commissioner Thomas suggested a compromise. The Commission could review the first building that was planned for the retail area after the Costco building, which would be expected to be of high quality materials and exceptional design and would be the benchmark for all the other retail buildings.

Chairperson Manuel closed the public hearing.

Vice Chairperson Arneson asked staff for its opinion concerning a requirement for the applicant to bring in schematic drawings along with the site plan and the Commission would review the design plans for the first building in the retail area after the Costco building. That would then set a precedent that could be followed for subsequent retail facilities.

City Planner Marks agreed that the suggestion could be written as a condition. However, he felt that schematic drawings for all buildings on the site plan would be difficult for the applicant to hold to, not knowing who the tenants would be or what their needs would be.

A conversation ensued between Vice Chairperson Arneson and City Planner Marks regarding the site plan and schematics and how they would or would not affect building design.

Commissioner Cohen made the suggestion that the Planning Commission review architectural plans for any proposed retail building 25,000 square feet or greater. Any proposed buildings under 25,000 square feet will be subject to architectural review by Planning staff through the Development Organization review. Staff shall have the discretion to refer any buildings for architectural review to the Planning Commission that are under 25,000 square feet.

City Planner Marks noted that the condition concerning Planning Commission review for buildings over 50,000 square feet and site plan review had been inadvertently left out of the last report. He stated that it would be added on page 2-16, Exhibit F, Condition 31(a).

Commissioner Thomas stated that she would still like the Commission to review the first retail building after Costco, no matter its size, so she would not support the motion.

Commissioner Cohen agreed.

Vice Chairperson Arneson asked that the first site plan include a schematic showing the expected design of the retail buildings. She also supported Commissioner Thomas's suggestion.

Commissioner Weaver supported Commissioner Cohen's motion, Commissioner Thomas's proposed amendment and Vice Chairperson Arneson's request.

Commissioner Wieckowski concurred.

City Planner Marks suggested language, such as: The Planning Commission shall review all buildings over 25, 000 square feet and the first building under 100,000 square feet. He asked if the commission supported Vice Chairperson Arneson's proposal that would add to Condition 3.

Chairperson Manuel complemented staff on its hard work concerning the report.

IT WAS MOVED (COHEN/WIECKOWSKI) AND CARRIED BY THE FOLLOWING VOTE (7-0-0-0) THAT THE PLANNING COMMISSION RECOMMEND CITY COUNCIL APPROVE THE ADDENDUM TO SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (SEIR) FOR PACIFIC COMMONS PROJECT, CATELLUS DEVELOPMENT CORP. SEIR PLN-2002-214, STATE CLEARINGHOUSE #8721715& 96052016;

AND
RECOMMEND THAT PRIOR TO CITY COUNCIL REVIEW, THE PACIFIC COMMONS MASTER PLAN 2000, PLANNED DISTRICT AND DEVELOPMENT STANDARDS AND GUIDELINES, MAPS SHALL BE REVISED TO INCLUDE NOBEL DRIVE, BETWEEN BUNCHE DRIVE AND CUSHING PARKWAY. THIS PORTION OF NOBEL DRIVE WAS MISTAKENLY OMITTED DURING THE REVISION;

AND
RECOMMEND THAT PRIOR TO CITY COUNCIL REVIEW, THE APPLICANT SUBMIT COPIES OF THE ENTIRE PACIFIC COMMONS MASTER PLAN 2000 PLANNED DISTRICT DEVELOPMENT STANDARDS AND GUIDELINES WITH ALL OF THE MODIFIED PAGES INTEGRATED. THE REVISIONS SHALL BE SHOWN AS FOLLOWS:

ELIMINATED TEXT SHALL BE STRICKEN;

NEW TEXT AND ALL PROPOSED INSERTS SHALL BE INSERTED WITHIN THE ACTUAL DOCUMENT TEXT AND UNDERLINED;

DRAWINGS SHALL BE APPROPRIATELY DELINEATED TO SHOW EXISTING AND PROPOSED CHANGES. THESE CHANGES SHALL INCLUDE, BUT ARE NOT LIMITED TO, HEIGHT, LAND USE, ROADWAYS AND THE DESIGN REVIEW PROCESS.

RECOMMEND CITY COUNCIL DETERMINE THAT THE PROPOSED LAND USES SELECTED ARE APPROPRIATE IN NATURE AND FUNCTION TO THE GENERAL PLAN DESIGNATION, IR-C-I;

AND
RECOMMEND CITY COUNCIL FIND PLN2002-0263, FINDING FOR A MAJOR AMENDMENT TO A "P" DISTRICT, IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S EXISTING GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LAND USE AND LOCAL ECONOMY CHAPTERS;

AND
RECOMMEND CITY COUNCIL FIND PLN2002-0263, AS SHOWN ON EXHIBIT "F" (REVISED PAGES TO PACIFIC COMMONS MASTER PLAN 2000 PLANNED DISTRICT DEVELOPMENT STANDARDS AND GUIDELINES, JUNE 22, 2000), FULFILLS THE APPLICABLE REQUIREMENTS SET FORTH IN THE FREMONT MUNICIPAL CODE;

AND
RECOMMEND CITY COUNCIL TO APPROVE PLN2002-00263, AS SHOWN ON EXHIBITS "A, B, F, G, H, J, K, L, M" SUBJECT TO FINDINGS AND CONDITIONS IN EXHIBIT "C";

AND
ADD THE FOLLOWING TO CONDITION 3: THE PLANNING COMMISSION SHALL REVIEW ALL BUILDINGS OVER 25,000 SQUARE FEET AND THE FIRST BUILDING UNDER 100,000 SQUARE FEET.

The motion carried by the following vote:

AYES: 7 – Arneson, Cohen, Harrison, Manuel, Thomas, Weaver, Wieckowski
NOES: 0
ABSTAIN: 0
ABSENT: 0

- Item 2. **SHOESTRING P DISTRICT – 42151 Blacow Road – (PLN2002-00282)** – to consider a Rezoning from C-N zoning to Planned District zoning and to permit a neighborhood bar through a Planned District Minor Amendment at this location. The project is located in the Irvington Planning Area. This project is categorically exempt from CEQA review per Section 15303(c), New Construction or Conversion of Small Structures. (Continued from June 13, 2002.)

David O'Hara, attorney, stated that he was representing the applicant regarding citations by the City of Fremont for the patio constructed in 1988. He stated that the patio was being used for smokers, per State of California law. The previous owners met the ADA by allowing smoking in the patio, which had windows in the rear that were meant to buffer the noise to the neighbors across the flood control channel. He emphasized that the patio was 480 square feet at the rear of the bar. The bar was grandfathered in and would continue to operate if the patio was not approved. The applicant purchased the bar in 1999 and the ABC license was modified to include the patio area with two City entities approving the application. Later, the City issued a citation because it seemed that the use of the bar had been expanded to a new area (the patio) without a building permit. City staff recommended that the trial be continued until a conditional use permit was approved, which had four conditions:

- Removal of a sign (done)
- Enclose dumpster or put it somewhere else on property (done)
- Remove barbecue (done)
- Remove shed attached to building (done)

Mr. O'Hara stated that the dumpster was the only condition that was included with this permit application. He stated that the current conditions were a surprise and would be prohibitively expensive to meet. No smoking was allowed in front of the bar or at the side that faced Blacow Road. He stated that flyers stating that the bar was to be expanded were not true.

Commissioner Thomas stated that it was obvious that an addition had been added to expand the patio area. She asked why he did not feel it figured into the problem.

Mr. O'Hara stated that he could not answer her question, but other people present could answer it.

Commissioner Harrison asked for clarification concerning the City police and why the City signed off on the ABC application for a license to serve liquor on the patio.

Mr. O'Hara answered that the City Development Department and the Public Information Officer for the City Police Department approved the form sent to them from the ABC, which included the patio area.

Vice Chairperson Arneson asked if the applicant was aware of the maximum occupancy of 49.

Mr. O'Hara stated that he and his client were told by the City Fire Marshal that concerned only the bar with occupancy allowed in the patio of 20 to 25 people. Others told him that Development was the department to set the occupancy rate.

Commissioner Cohen stated that he recently had a conversation with Mr. O'Hara. He asked if there had been more than the typical scrutiny of this building by City officials.

Mr. O'Hara stated that it seemed so to him. On this day, three officials had come into the facility and police had made numerous visits to check on the occupancy, but were not summoned by a complaint. All this was detailed in the report. Many of the complaints had been recently made since the application for a change in zoning was made.

Chairperson Manuel opened the public hearing.

Mark Hirsch stated that he was helping to clear up the kind of issues that the Commission had asked about. The shed in the back, another storage area, the air conditioning were issues that had not been dealt with. The shed was refurbished within the past two years. He promised that all the items would be dealt with, either by permits or removal or replacement. The request for a change in zoning would allow the owners to improve the patio area, which was not possible under the current circumstances. A permeable product was planned to be used that would deaden the sound. Most of the suggestions were in the conditions. The

owners were comfortable with the occupancy within the enclosed bar and the open patio would have its own occupancy level, whatever was decided. He stated that the owners were sensitive to the neighbors concerns, as this neighborhood bar was one of a dying breed. He acknowledged that many other concerns needed to be addressed, but the zoning approval had to be done first. He had sent a letter to all the neighbors on the list that Planner Foss made available to him concerning a meeting that was held in his office approximately two weeks ago and four people attended and one telephone call was received. Two of the attendees were other business people located in the same building and one person believed the location of the bar was to be changed. He agreed that the business had been under heightened scrutiny and suggested security measures made by the police department had been put into place.

Commissioner Thomas stated that trash and a barbecue were still sitting outside when she visited the site two weeks ago.

Mr. Hirsch stated that an arrangement had been made with a nearby Big O Tire shop to relocate the dumpster on its property. Other garbage cans were used for recycling. They would be enclosed and they would not be used at 1:30 a.m., disturbing the neighbors. An appointment had been made to meet with the Fire Marshal to address any concerns that he might have. They also planned to meet with code enforcement personnel to ascertain if the refurbished shed and other outbuildings could be brought up to code or removed.

Commissioner Thomas asked if this enclosed space was also in question.

Mr. Hirsch stated that it was adjacent to the patio and would be addressed.

Vice Chairperson Arneson asked if enclosing the patio was an option, which would keep the noise in the building.

Mr. Hirsch stated that one noise reducing option would be to install a top that would go over the patio and deaden the sound, which was the first preference. With smoking, it could not be completely enclosed. Also being considered was an open top with "sound absorbing baffling installed in between."

Commissioner Wieckowski asked if Big O Tires had objected to sharing its parking lot with the applicant's customers. If not, what was the reason for the condition?

Mr. Hirsch stated that on Saturday night there were approximately 15 cars parked at Big O Tires. They were great neighbors and an arrangement would be entered into with them that would minimize the impact on the neighborhood.

Commissioner Thomas asked what the normal closing times were.

Mr. Skinner replied that bars were allowed to open at 6:00 a.m. and close at 2:00 a.m., seven days a week. The patio was closed at 10:00 p.m. during the week and 11:00 p.m. on Friday and Saturday, which was an informal agreement made with Code Enforcement about two years ago.

Commissioner Thomas asked if the patio could be closed earlier.

Mr. Skinner stated that it could.

Vice Chairperson Arneson asked about the incidents that had occurred after 12 midnight within the last month.

Mr. Skinner stated that the noise complaints were alarming. Earlier in the year, he met with police representatives and instituted the suggestions made to mitigate the noise from the jukebox. Recently, a complaint was made about the noise of bottles dropped into the

recycling containers. Through research at Shoreline Amphitheater and Santa Clara University, he had some ideas about how to muffle the noise in the patio. He wanted to be a good neighbor.

Commissioner Cohen opined that the patio issue had accented a lot of other issues. He asked what conditions were unacceptable and if the situation was near a conclusion or did they need more time to work out the details. He also asked what conditions were acceptable to them.

Mr. Hirsch replied that an assembly permit was needed to accommodate more than the current 49 customers and it would entail upgrades that were financially not feasible. It was obvious that the customer limit would have to be 49 within the bar building and the applicant hoped to upgrade the patio and the rest of the facility. The business had improved and sometimes there were people waiting to get in, so the threshold of 49 was prohibitive. The conditions that specified landscaping and the "style of improvements" were acceptable. If the patio was maintained as a patio with 50 percent open side yard, then the occupancy would not be counted as part of the maximum 49 customers. He replied that all conditions were acceptable, except those tied to the assembly permit, which they did not plan to apply for.

Vice Chairperson Arneson pointed out that the Commission had to make certain findings to approve the application. One of the findings stated that "the proposed use would not be detrimental to the general welfare of persons residing in the immediate vicinity." She questioned that this finding could be reached, because of the complaints and letters that had been received.

Mr. Hirsch stated that the patio was involved in a legal case and was a historical issue, which was still outstanding. By obtaining this approval, they expected to make changes in the patio within 90 days that would remove the noise issue.

Commissioner Weaver asked if the patio closed at 11 o'clock on Friday and Saturday nights, where did the smokers go when the bar was still open until 2:00 a.m.

Mr. Skinner stated that they stood in front of the bar on Fremont Boulevard, which made it uncomfortable when trying to stay within City regulations.

Commissioner Thomas understood that the occupancy limit for the bar was 49 and there was no current occupancy limit for the patio. She asked if this hearing would take care of the occupancy limit. She also asked how the overflow customers were handled. She asked if, theoretically, 100 people could be in the patio. She noted that one police report stated that approximately 150 people had been seen on the premises.

Mr. Hirsch stated that the patio would have its own occupancy designation, which would be based upon 15 square feet of net usable space and would have a total occupancy of about 25 people. He stated that this hearing would include the occupancy allowed for the patio. He stated that security people were hired to handle the people waiting to get in. The people in the bar were counted and someone was only allowed in when someone left. He did not believe that more than 35 people were ever on the patio.

Mr. Skinner stated that the 150 people noted in the police report was before the security people were hired and other changes were added, which the report prompted.

Chairperson Manuel opened the public hearing.

Eugene Para, Hamilton Way neighbor, had issue with many comments made by the applicant. More than just the patio was at issue. He stated that the patio noise escaped through the lattice until after 10 o'clock, which made it impossible to sleep. He stated that this had been going on for over 2½ years and wanted the patio closed down to all activities other than providing a customer a place to smoke a cigarette.

Commissioner Harrison stated that the speaker had called him and stated that he was sending photos, City letters and a petition to the Commission. He stated that the applicant sounded very reasonable and had been working towards mitigating the noise. He asked if the speaker had noticed any improvements in the last 1½ years. He asked if he noticed that the patio closed at 10:00 p.m. He asked if the suggested sound wall would help.

Mr. Para stated that he had noticed more customers. He had not noticed the policing of the crowd and the patio did not close at 10:00 p.m. He agreed that a sound wall would probably help with the noise, but noted that it had not been done during the 2½ years that the applicant had owned the bar. He suggested creating a small, smoking area by the gate on the side, as it took only a few minutes to smoke a cigarette. The bar had never been a problem until the patio was opened about three years ago.

Laura McDonald, Blacow Road neighbor, questioned why a patio was needed. She knew that other local bars did not have one. People went out to the patio to stay while they drank and smoked, which, in her opinion, made the patio an extension of the bar.

Commissioner Thomas asked if she had noticed noise after the bar closed. She asked if the sound level was higher

Ms. McDonald said that people did not leave right away; they stood around talking until after 2:30 a.m. She agreed that the noise was much louder after closing time.

Randy Couthram, Blacow Road neighbor, was confused about whether the bar was going to move to another location. The bar was currently located next to the Bin and Barrel liquor store and the other addresses on the notification were on Blacow Road. He believed that more customers would frequent this bar when the bar at five corners closed. What used to be a small, neighborhood bar had become more than that. He complained of the “junk along the fence” that was a fire hazard. He suggested not allowing the patio area so that the customers were confined within the bar proper. The retaining wall that was constructed a few months ago was attractive but was not high enough to keep out the noise. There also was discarded junk behind the wall. He opposed the rezoning.

Joanne Perlawitz, neighbor across Blacow Road, stated that her adult children had gone to the Shoestring Bar when they lived at home, and she had noticed within the last few years that it had become larger. The parking lot was always full and parking had spread to Blacow Road. This was no longer a friendly, neighborhood bar with ten or twelve people from the neighborhood. She commended the applicant for his success, but the bar was pulling from all areas in the City of Fremont and this was the wrong neighborhood for something larger. She noted that beer or liquor could be bought from businesses on all four of the corners at Fremont Boulevard and Blacow Road. She believed that the rezoning would allow the bar to improve business and become larger. She agreed that when the bar at the five corners closed, those patrons would probably come to the Shoestring.

Joseph Ernest, Hamilton Way resident, stated that he was “appalled” that the rezoning was even being considered. He disagreed that the applicant had been working with the City, as illegal structures had been built and more than the maximum 49 customers had been allowed in the bar. The patio area was closer to 1,000 square feet rather than the 480 square feet mentioned earlier. He stated that when he first called the police to complain about the noise, he was told, essentially, that the bar “had a license to make as much noise as they want.” After that, he did not call to complain again. A patio was not the only solution to accommodate smokers; a smoking area could be built within the bar premises or the applicant could move to a more appropriate location. The patio was not closed at 10:00 p.m. and they had more than 49 people inside the bar. The buildings at the back did not exist a long time ago and the existing buildings were not refurbished, they were built. The biggest problem was constant noise from an open-air bar area. There were fights and unmuffled motorcycles “holding rev fests followed by racing up and down the street.” He stated that two

cars of his had been totaled by drunks driving around the area. He believed that the codes and permits regulating such an establishment had been blatantly disregarded and, in his opinion, approval of the rezoning would reward the applicant. He suggested requiring the installation of sound monitoring equipment with recording devices so that the City would know when the regulations were violated and appropriate with fines should be instituted.

Luis Ramirez, Hamilton Way resident, agreed with all of the other speakers. His concern was that the location of the bar was inappropriate when in the same area as the local schools, and children should not be exposed to the noise and language that could be heard from the patio. After the patio and/or bar was closed, the smokers and patrons moved noisily into the neighborhood.

Mr. Hirsch closed by stating that the sound deadening measures had not been implemented because the applicant was not able to obtain a permit during the time that the litigation had been going on. Approval of the rezoning would allow the applicant to undertake the sound deadening measures to relieve the neighborhood of the noise and any continued complaints would be dealt with.

Commissioner Harrison asked that the speaker respond to the several speakers who spoke about the bar expanding and the confusion concerning the address.

Mr. Hirsch stated that there would be no relocation and the bar was not expanding or taking over part of the liquor store. He believed that the number of people who used the premises would be reduced, because the occupancy for the patio would be clarified. He stated that the parking lot would be cleaned up and restriped, trees would be planted and all of the noncompliant issues, even the historical ones, would be dealt with.

Commissioner Harrison asked Mr. Skinner if the sale and consumption of alcohol on the patio could be stopped before 10:00 p.m. and the patio could then be used just for smoking, which would cut down on the evening noise that the neighbors had complained about. He recalled the neighbors asking why noise mitigations had not been done before and asked Mr. Skinner if the ongoing litigation had prevented him from doing any mitigations before he received a permit.

Mr. Skinner stated that the noise was not just voices and bottles, there were televisions on the patio, also, which were there when he bought the bar. He stated that he hoped to turn the bar into a sports bar and admitted that he did not know how to control the patrons' enthusiasm when watching games. Many games started at 7:00 p.m., but he believed that he could work with the neighbors concerning the closing and opening of the patio and when alcohol was served. He understood that the patio would be "on probation and would be looked at" every so often. He described the cover that he envisioned would be used to deaden the noise on the patio. He agreed that the litigation had hindered sound mitigations and told the attending neighbors that he would have put up the sound barrier earlier, if he had been allowed by the City to apply for a permit to do so. He stated that all improvements would be done within 90 days, as required in the conditions.

Chairperson Manuel stated that she had noticed the trash problem that the neighbors had complained about and asked what the applicant's plans were to ensure that there would be a clean environment around the bar. She also asked about the trash along the cyclone fence at the back of the patio area. She asked if Mr. Skinner would be amenable to installing the sound equipment that was suggested by one speaker. What could the applicant do to stop the noise from the motorcycles?

Mr. Skinner stated that people frequenting the local nearby fast food restaurant sometimes littered the parking lot area. His agreement with Big O Tires was that his employees cleaned up all litter at night and he offered to clean down Blacow Road, also. The dumpster was hidden behind Big O Tires and he planned to enclose the recycle containers, which could not be done without a permit and he could not obtain one at this time. He claimed that the trash along the cyclone fence was left there many years ago when the fence was built. He

promised to clean it up. He agreed that sound equipment would be a good idea. He stated that many responsible citizens drove motorcycles to his establishment and he could not speak to the motorcycles being revved up and annoying the neighbors.

Vice Chairperson Arneson asked how Mr. Skinner could monitor the customers who left his bar to make certain that they actually left the premises and did not disrupt the neighborhood.

Mr. Skinner stated that his security men did the best they could. There were usually six men at the bar at closing. The people who drank too much were walked home or were put into a cab, which was difficult with the limited service in Fremont. The police department was very helpful when they arrived because of a sound issue. The parking lot emptied very quickly. He stated that he was open to any suggestions from the neighbors and other bar owners, as this was a new problem for him due to new patrons.

Commissioner Wieckowski asked how Exhibit D, Condition 16 would be adhered to. He believed this condition would mitigate the sound problems. He asked if the Commission could count on the televisions being turned off on the patio at 10:00 p.m. on weekdays and 11:00 p.m. on Fridays and Saturdays.

Mr. Skinner replied that the two entrances to the patio, one behind the bar and one by the bathrooms, would be locked. He agreed to turning off the televisions when it was time to vacate the patio.

Commissioner Thomas noted that the condition stated that no televisions or sound equipment would be allowed in the patio area, so there should be nothing to turn off. She asked if the applicant agreed to having no televisions, radios or live music on the patio.

Mr. Hirsch stated that the applicant was looking at the first option, which would allow televisions.

Commissioner Thomas stated that option required fully enclosing the patio with insulating material, solid doors and windows and mechanical ventilation.

Mr. Hirsch stated that the applicant was leaning somewhat between the two options. He stated that the baffling that Mr. Skinner described earlier would be the preference.

Commissioner Thomas reiterated that his preference would not fulfill the condition. If he wanted the television, he would have to enclose the patio. She asked what his suggestion was.

Mr. Hirsch stated that fully enclosing the patio was not feasible. He stated that he would like to have the open patio with the baffling, which he believed would deaden the noise, and would agree to the restricted house.

Commissioner Wieckowski asked if it would be acceptable if televisions were allowed on the patio.

Mr. Hirsch stated that televisions would be acceptable and they would still plan to add the baffling.

Commissioner Thomas opined that if the patio was meant for smokers, the latticework should be removed and the roof area should be small (just large enough to protect the smokers from the elements). The customer would be allowed to take his drink with him while he smoked, but there would be no bar to buy another drink from and there would be no television. She asked if the applicant would agree.

Mr. Hirsch stated that her suggestion would not be agreeable.

Chairperson Manuel closed the public hearing.

Vice Chairperson Arneson noted that the conditions of approval gave the applicant just two choices and asked if this application should be continued to allow time to resolve some of the issues. She did not believe that she could make the finding that approval of this application would not be detrimental to the persons in the immediate vicinity. Allowing the televisions on the patio would not solve the problem.

City Planner Marks stated that if the Commission agreed to the third alternative, as posited by the applicant, staff would be happy to explore that. He noted that this application had been pending for several months and the third alternative had surfaced only recently. He recommended that a deadline be made if the Commission wanted a continuance. These were long-standing issues that the applicant had every opportunity to resolve earlier.

Commissioner Thomas stated that she had a problem with both choices, as had the applicant. If this patio was to provide a place for smokers, it did not need lattice work, a bar or a television. Obviously, the patio had a bar, a television and was an extension of the bar and was creating the problem. In her opinion, closing the patio at 10:00 p.m. and 11:00 p.m. was later than it should be, considering how early people had to get up in the morning to make it to work on time. She agreed with one speaker who felt that the rezoning would be rewarding the applicant's past misbehavior. An addition with solid walls and ventilation and air conditioning could be built for the smokers or the patrons could be limited to 49, even if they were on the patio. In her opinion, this may encourage patrons to leave before they got drunk, allow more turnover and the noise problems at the end of the night would be less. She would not approve the present situation that was unacceptable to the neighborhood.

Commissioner Weaver opined that the applicant was "caught between a rock and a hard place" as he could not do any improvements until he received a permit and could not get his permit until the litigation was resolved. She would not support the third alternative. The source of the problem was the patio area, which should be simple and minimal, or a new addition could be built that would accommodate the smoke from the smokers.

Commissioner Wieckowski supported the third alternative. He did not want to take an action that would force the parties into further litigation. The third alternative was the way to solve the problems. The Shoestring could not be made into a "fern bar", as it did not attract those kinds of people. It was nice that there "was a place in Fremont where people could sit outside, have a beer, watch the Giants game and have a breeze go by." The patio had been there for over twelve years and the applicant had created a popular establishment where people wanted to be. These kinds of places were a part of the history and charm of the City and were as important to the City as "some of the new things that were being built." He would support a continuance to allow a third alternative to be developed that would not "cost an arm and a leg."

Vice Chairperson Arneson felt that the neighbors should not be subject to the kind of disturbance that had been described, particularly late at night. The solution should be something that would keep the noise from disturbing them. One choice was to build an addition and keep the sound inside or use the patio for smoking, only. She would consider a third choice that would keep the sound from escaping to the neighbors to ensure their quality of life.

Commissioner Harrison agreed with the applicant's plans for deadening the sound and suggested that the feasibility of the monitoring equipment be investigated. He hoped that a continuance would be agreed upon to allow the applicant to convince the neighbors that his plans for deadening the sound were good. Then he could get on with his successful business.

Chairperson Manuel expressed concern that a continuance would perpetuate the problem for the neighbors. The two choices seemed to be the best of many alternatives that had been

discussed for a long time. She was not sure that anything would be changed with a continuance. She suggested that additional conditions could be added to allow the application to move forward. She would not vote for continuance.

Commissioner Cohen stated that the writing was on the wall and the applicant should be able to see the choices he had to make, in light of the comments made by his neighbors and the Commission. He would support a continuance, even though this problem had been ongoing for a long time. He suggested an additional condition for review in six months or one year, upon approval, which would pressure the owner to comply with the requirements and satisfy the neighbors. If the patio was removed, the applicant still had the right to operate the bar, which would still have some of the same concerns unrelated to the patio. He believed that the applicant was misled when the ABC application was processed and the City signed off on it.

Commissioner Thomas stated that she would not support a continuance, as there were two viable alternatives already available to the applicant. She did not believe the suggested baffles, etc., would solve the problem.

Commissioner Harrison advised the applicant to work with the neighbors to make sure that they were a part of the process, as well.

IT WAS MOVED (COHEN/ARNESON) AND CARRIED BY THE FOLLOWING VOTE (4-3-0-0) THAT THE PLANNING COMMISSION **CONTINUE THIS ITEM TO AUGUST 8, 2002.**

AND

APPLICANT SHALL MAKE EFFORTS TO WORK WITH THE NEIGHBORS TO ADDRESS THEIR CONCERNS.

The motion carried by the following vote:

AYES: 4 – Arneson, Cohen, Harrison, Wieckowski

NOES: 3 – Manuel, Thomas, Weaver

ABSTAIN: 0

ABSENT: 0

Item 3. DOUBLE WOOD GOLF COURSE LLC - (PLN2002-00273) - to consider a Development Agreement for the Double Wood Golf Course located northerly of Avalon Heights Terrace in the Warm Springs Planning Area. This development agreement is for the golf course project evaluated in the Subsequent Environmental Impact Report (SEIR 90-31) and by an addendum to that SEIR approved by the Assistant City Manager.

Paul Kozachenko, attorney, stated that he represented the applicant and asked for questions.

Commissioner Wieckowski objected to the provision that the \$22,500 per year to be paid by the applicant and be applied to park facilities in Mission San Jose and Warm Springs. He asked that the provision be modified to specifically apply the money to the environmental services to pay for creek cleanup and restoration throughout the City of Fremont.

Mr. Kozachenko had no objection to how the money was used for within the City.

Chairperson Manuel opened the public hearing.

Betsy Yamasaki, President of Avalon Homeowners Association, stated that the homeowners were anxious for the golf course to be built and were behind the applicant. She asked the Commission to do whatever it took to get the project going. They worried about the tall weeds on the property and looked forward to the beginning of the project.

Mr. Kozachenko supported staff recommendation.

Vice Chairperson Arneson asked who suggested that the money be used towards the parks. Was it a particular need?

Mr. Kozachenko did not remember.

Chairperson Manuel closed the public hearing.

Vice Chairperson Arneson asked if the Warm Springs and Mission area were targeted for the money because it was underserved when it came to parks. She wondered if the money should be allocated as conditioned.

Commissioner Wieckowski agreed that parks should be provided throughout the City. However, he did not feel that the City was focusing enough on the upkeep of the creeks and this money could be applied to environmental restoration.

Special Assistant Banda stated that the Planning Commission could recommend how the money was to be used. The idea was to focus on facilities in the general area of the golf course to which the moneys could be applied. Double Wood would be responsible for the creeks in the area.

Vice Chairperson Arneson asked if the creeks would be properly maintained and restored by Double Wood. She understood that the creeks were already being restored.

Special Assistant Banda stated that Double Wood would take care of the creeks in the Double Wood area. The intent was to use the money towards something like the Rancho Higuera adobe.

Commissioner Wieckowski replied that creeks in other areas of the City were being overlooked. He was afraid that when the money went into the recreation budget, it would be spent on something less important, such as a tennis court.

Commissioner Harrison suggested that five years of fees could be put towards creek restoration and five years towards the parks.

Commissioner Cohen felt that the discounted greens fees that were to be available during the week would not provide discounts for most of the youth under 18, as they would be in school. He would like a stronger concession for a discount at a time where they would actually be able to use it. He also agreed with Commissioner Wieckowski's suggestion for applying the fees for creek restoration in other parts of the City.

Commissioner Thomas asked what department would creek restoration be under. She wondered if the money would go into a hole and be used only after it had built up and if creek restoration was appropriate for that amount of money. She suggested that the money be used for general environmental uses, including creek restoration.

City Planner Marks stated that Environmental Services was generally responsible for creek restoration. He did not know what the funding requirements were.

Commissioner Harrison reminded Commissioner Cohen that the youth were out of school for three months in the summer plus the various three-day holidays and occasional weeks that would be available for the discount to be used. He believed that the high schools could use it during school time. He felt that the City had "grabbed" enough.

Commissioner Cohen agreed with Commissioner Harrison remarks, but felt that the concession was not enough.

Commissioner Wieckowski agreed with Commissioner Cohen and agreed that an "elastic" application of the greens fees would be in order.

It was agreed that the Commission would recommend that \$22,000 per year be used for creek restoration and environmental improvements throughout the City and that it was not necessary to reword the portion of the condition concerning youth and senior discounts.

IT WAS MOVED (HARRISON/WIECKOWSKI) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1) THAT THE PLANNING COMMISSION

HOLD PUBLIC HEARING;

AND

FIND THAT THE SUBSEQUENT EIR-90-31A AND ITS ADDENDUM, SEIR (2000) COVER THE PROJECT AND THAT NO FURTHER ENVIRONMENTAL DOCUMENT IS NECESSARY;

AND

FIND PLN2002-00273 IS CONSISTENT WITH THE OBJECTIVES, POLICIES, GENERAL PLAN LAND USES AND PROGRAMS SPECIFIED IN THE GENERAL PLAN; IS COMPATIBLE WITH THE USES AUTHORIZED IN AND THE REGULATIONS PRESCRIBED FOR THE LAND USE DISTRICT IN WHICH THE REAL PROPERTY IS LOCATED; AND IS IN CONFORMITY WITH THE PUBLIC CONVENIENCE, GENERAL WELFARE AND GOOD LAND USE PRACTICE AND WILL NOT BE DETRIMENTAL TO THE HEALTH, SAFETY AND GENERAL WELFARE; AND WILL NOT ADVERSELY AFFECT THE ORDERLY DEVELOPMENT OF PROPERTY OR THE PRESERVATION OF PROPERTY VALUES. EVIDENCE TO SUPPORT THE FINDING IS CONTAINED IN THE PROJECT REPORT;

AND

RECOMMEND PLN2002-00273 TO THE CITY COUNCIL IN CONFORMANCE WITH EXHIBIT "A" (DEVELOPMENT AGREEMENT) EXCEPT THAT \$22,000 BE USED FOR CREEK RESTORATION AND ENVIRONMENTAL IMPROVEMENTS RATHER THAN FOR PARTS.

The motion carried by the following vote:

AYES: 6 – Arneson, Cohen, Harrison, Manuel, Thomas, Wieckowski

NOES: 0

ABSTAIN: 0

ABSENT: 1 – Weaver

- Item 7. ANIMAL SLAUGHTER ORDINANCE - (PLN2002-00220)** - to consider a City-initiated Zoning Text Amendment (ZTA to amend the permitted uses provisions in Title VIII (Planning and Zoning), Chapter 2 (Zoning) to not permit the slaughter or cleaning of live poultry and/or meat for subsequent sale in commercial districts. The Planning Commission will also evaluate the use in General Industrial (G-I) zoning districts, to determine if the use should continue to be conditionally allowed, or not permitted. This project is exempt from CEQA review per Section 15061(b)(3), because the project has no potential for causing a significant effect on the environment.

City Planner Marks introduced Matt Foss, planner for this item. This item arose from an earlier inquiry concerning live animal slaughter in a commercial district and the discovery that the current zoning ordinance allowed it as a right. The Council then adopted an emergency ordinance that prevented it from occurring. The Council indicated that they wished the ordinance to become permanent and asked for staff comments regarding whether live animal slaughter should be banned everywhere in the City, including the industrial districts.

Chairperson Manuel opened and closed the public hearing.

Commissioner Wieckowski was of the opinion that it should be permitted in the industrial areas, because if the County and State did not have responsibility for the care of animals that were to be used for food, why should the City. He noted that the City of Oakland did not allow the slaughter of animals, but many live animals were sold at the farmers markets and it

was naïve to not expect that these live animals “would be on the dinner plate of the people who were purchasing them.” He asked if it was better to allow it within individual houses or in a controlled environment.

Planner Foss stated that this specific type of operation was excluded from the County and State’s oversight because it was family run and were exempt from their regulations. Animal Services would be involved because they kept live animals on the property.

City Planner Marks clarified that this was assuming that these operations were family run and not all of them were.

Senior Deputy City Attorney Daniel stated that Animal Services would be enforcing State law. It was the City’s responsibility. She asked for clarification from Commissioner Wieckowski regarding his specific question about this proposal.

Commissioner Wieckowski noted that, in Oakland, the animals were probably slaughtered in the individual homes, which could affect general health more than allowing it under a controlled environment. He believed that there was a certain population in the City that felt freshly slaughtered animals was preferred to what was available from other entities. He asked how limiting or prohibiting the slaughter of live animals, with some controls, was worse than allowing slaughter in individual homes. He did not want these people to be acting illegally.

City Planner Marks stated that staff was asking for direction on that very subject.

Vice Chairperson Arneson supported no slaughtering in both the commercial and industrial districts. She did not believe that slaughtering live animals was as common as it used to be. It seemed to her that the cities that allowed slaughtering, had problems and believed this was one problem that the City of Fremont could do without. This kind of activity did not have to be attracted to the City.

A conversation ensued concerning health and safety issues, the potential for entrepreneurial enterprise, limited health inspection and the appropriateness of such a facility anywhere in the City.

Commissioner Thomas stated that there were a lot worse users than slaughterhouses but she admitted to feeling “NIMBY” (not in my backyard).

Vice Chairperson Arneson stated that it was possible now to get fresh-killed meat from certain establishments.

Commissioner Harrison asked the difference between “slaughter and process.” Did the local butcher shop process, which was not before the Commission? Was the slaughtering just to be decided? Was slaughtering allowed for pet food?

City Planner Marks stated that Commissioner Harrison’s last comment about pet food had been missed and should have been struck.

Chairperson Manuel stated that she was interested in the rights of the animals to be slaughtered and she could not condone bringing the animals from somewhere else to be slaughtered. Food could be bought from many places. Slaughtering in a “high tech environment was absurd.” She would not approve of any slaughtering of animals in the community.

Senior Deputy City Attorney Daniel stated that the Commission was asked to act on Recommendation No. 5 for the commercial district and a separate action could be taken on Recommendation No. 6 with respect to the General Industrial district.

FIRST VOTE:

IT WAS MOVED (ARNESON/HARRISON) AND CARRIED BY THE FOLLOWING VOTE (5-0-1-1) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

APPROVE STAFF RECOMMENDATIONS 1 THROUGH 5, WHICH DEALT WITH THE COMMERCIAL DISTRICT

The motion carried by the following vote:

AYES: 5 – Arneson, Cohen, Harrison, Manuel, Thomas

NOES: 0

ABSTAIN: 1 – Wieckowski

ABSENT: 1 – Weaver

Commissioner Thomas asked if it was appropriate to add a condition under Section 8.

City Planner Marks stated that it had not been noticed, so could not be changed.

Senior Deputy City Attorney Daniel suggested a friendly amendment that struck the remainder of the language, which included the slaughter of animals for pet food.

Commissioner Cohen stated that he was prepared to support allowing the slaughtering of animals in the industrial district, but Chairperson Manuel's comments convinced him that it was not appropriate anywhere in the City.

IT WAS MOVED (ARNESON/HARRISON) AND CARRIED BY THE FOLLOWING VOTE (4-2-0-1) THAT THE PLANNING COMMISSION HOLD PUBLIC HEARING;

AND

RECOMMEND TO THE CITY COUNCIL TO REMOVE THIS USE FROM G-I DISTRICTS IN CONFORMANCE WITH EXHIBIT "B" (ZONING TEXT AMENDMENT; G-I DISTRICTS);

AND

RECOMMEND THE CITY COUNCIL FIND THIS PROJECT EXEMPT FROM CEQA REVIEW PER SECTION 15061(B)(3), BECAUSE THE PROJECT HAS NO POTENTIAL FOR CAUSING A SIGNIFICANT EFFECT ON THE ENVIRONMENT;

AND

FIND PLN2002-00220 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE THE DESIGNATIONS, GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S LOCAL ECONOMY CHAPTERS AS ENUMERATED WITHIN THE STAFF REPORT;

AND

FIND THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE REQUIRE THE ADOPTION OF ZONING TEXT AMENDMENT PLN2002-00220 BECAUSE IT WILL PREVENT ADVERSE IMPACTS ASSOCIATED WITH THIS USE FROM OCCURRING;

AND

RECOMMEND PLN2002-00220 TO THE CITY COUNCIL IN CONFORMANCE WITH EXHIBIT "A" (ZONING TEXT AMENDMENT);

The motion carried by the following vote:

AYES: 5 – Arneson, Cohen, Harrison, Manuel, Thomas

NOES: 1 – Weickowski

ABSTAIN: 0

ABSENT: 1 – Weaver

Item 8. TEMPORARY AND SEASONAL USES - (PLN2000-00109) - to consider a City-initiated Zoning Text Amendment modifying Sections 8-22101, 8-22149, 8-22159 and 8-22162 of the Zoning Ordinance to conform to the provisions of Ordinance No. 1797 (Recycling Facilities) and No. 2317 (Carnivals) and the ~~proposed~~ Special Events Ordinance, pertaining to temporary and seasonal uses outside of enclosed buildings. This project is categorically exempt per *CEQA Guidelines* Section 15304 (Class 4), pertaining to Minor Alterations to Land, subsection (e).

Senior Deputy City Attorney Daniel stated that the ordinance was no longer "proposed." It had been adopted by the City Council on June 4, 2002.

Chairperson Manuel opened and closed the public hearing

Commissioner Harrison asked if the Art and Wine Festival and the Niles Barbecue would be affected by this modification and the vendors who come in with trailers. He worried that a "Trailer Czar" was going to be created.

Planner Slen stated that this modification would specifically allow vendors for specific functions, but the Building Department would review for health and safety issues.

Senior Deputy City Attorney Daniel stated that, for example, for the Art and Wine Festival, there was an internal process where 16 City employees from many departments reviewed the applications, which included the trailers. An overall special event permit was granted and all other needed permits were noted on the application.

IT WAS MOVED (HARRISON/COHEN) AND CARRIED BY THE FOLLOWING VOTE (6-0-0-1) THAT THE PLANNING COMMISSION

HOLD PUBLIC HEARING;

AND

FIND PLN2000-00109 IS IN CONFORMANCE WITH THE RELEVANT PROVISIONS CONTAINED IN THE CITY'S GENERAL PLAN. THESE PROVISIONS INCLUDE GOALS AND POLICIES SET FORTH IN THE GENERAL PLAN'S FUNDAMENTAL GOALS, LOCAL ECONOMY AND NATURAL RESOURCES CHAPTERS AS ENUMERATED IN THE STAFF REPORT;

AND

FIND THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE REQUIRE THE ADOPTION OF THIS ZONING TEXT AMENDMENT PLN2000-00109 IN ORDER TO IMPLEMENT PREVIOUSLY ADOPTED ORDINANCES, FREE SPEECH ACTIVITIES, REDUCED WASTE OF USED CONSUMER GOODS AND SEASONAL PUMPKIN SALES;

AND

RECOMMEND PLN2000-109 TO THE CITY COUNCIL IN CONFORMANCE WITH EXHIBIT "A" (ZONING TEXT AMENDMENT).

AYES: 6 – Arneson, Cohen, Harrison, Manuel, Thomas, Wieckowski

NOES: 0

ABSTAIN: 0

ABSENT: 1 – Weaver

MISCELLANEOUS ITEMS

Information from Commission and Staff:

- Information from staff: Staff will report on matters of interest.
- Set date for visit to Pacific Commons wetlands mitigation sites

City Planner Marks stated that he would e-mail the dates that he thought were Tuesday, July 16th and Wednesday, July 17th

- Information from Commission: Commission members may report on matters of interest.

Chairperson Manuel thanked staff for the notes on the retail presentation that were included in the packets. She noted that she had not received the draft agenda for the next meeting.

Commissioner Thomas and others stated that they had not received the agenda for this meeting.

Commissioner Wieckowski stated that he would be traveling and would not attend the next meeting.

Meeting adjourned at 10:45 p.m.

SUBMITTED BY:

APPROVED BY:

Alice Malotte
Recording Clerk

Dan Marks, Secretary
Planning Commission